

A4 Have Sustainability Appraisal and Appropriate Assessment been undertaken, the latter under the Habitats Directive?

1. Appendix 1 –Natural England was not formally consulted on the final version (Revision D) of the Task 2 HRA before it was published on the GNDP website. Prior to that, the last correspondence we had with the consultants, Mott MacDonald, was our letter dated 18 February 2010, which already exists in the inspector's library. Under the *Conservation of Habitats and Species Regulations 2010*, Part 6, Assessment of Plans and Projects: Regulation 61 (3) *The competent authority [in this case, the GNDP] must for the purposes of the assessment consult the appropriate nature conservation body [in this case, Natural England] and have regard to any representations made by that body within such reasonable time as the authority specify.* The Regulations go on to state that *'the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site'* Reg 61 (5)

The full Appropriate Assessment has now been undertaken, and we attach our response to it.

Date: 12 October 2010
Our ref: S/Policy/GNDP/JCS HRA

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Dear Mike

Habitats Regulations Assessment of the Joint Core Strategy (JCS) for Broadland, Norwich and South Norfolk

Thank you for hosting our recent meeting and providing an update on Mott MacDonald's Habitats Regulations Assessment of the Joint Core Strategy. This letter should be read in conjunction with our earlier detailed comments on Tasks 1 and 2 from our emails dated 18 June 2009, 14 September 2009, 4 February 2010, 15 February 2010 and 18 February 2010. We confirm that we have now received a copy of Revision D of the Task 2 AA report, although we were not formally consulted at the time of its submission to the GNDP. Under the *Conservation of Habitats and Species Regulations 2010*, Part 6, Assessment of Plans and Projects: Regulation 61 (3) *The competent authority* [in this case, the GNDP] *must for the purposes of the assessment consult the appropriate nature conservation body* [in this case, Natural England] *and have regard to any representations made by that body within such reasonable time as the authority specify*. The Regulations go on to state that *'the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site'* Reg 61 (5).

We are satisfied that the Habitats Regulations Assessment (HRA) has been completed as required by the Regulations. The conclusions of the HRA are that any uncertainty over adverse effects associated with the plan can either be avoided or mitigated. We would only be able to concur with this conclusion if there is certainty that all mitigation measures set out in the report – including implementing in full the Green Infrastructure Delivery Strategy and additional accessible natural greenspace provision to protect designated sites as required, and securing the necessary improvements to water supply and disposal infrastructure– will be put into place in a timely fashion, and consequent Development Plan Documents can secure the necessary mitigation within the hierarchy of development.

In preparing our response, we have applied the precautionary principle of the *Conservation of Habitats and Species Regulations 2010*, which requires the competent authority to be able to ascertain that the plan will not adversely affect the integrity of European sites. Under the precautionary principle, the onus is on the applicant to demonstrate no harm, after mitigation – if required – is secured. According to the DCLG's 2006 guidance: 'Mitigation measures need to be viable, timely and possible to implement' (p.12). Mitigation which is not deliverable cannot remove uncertainty.

We fully endorse the requirement on page 23 (6.2.1) for 'full implementation of the Green Infrastructure Strategy', without which the vulnerability of designated sites to visitor pressure, through consequent disturbance of bird populations or trampling of vegetation, for example, will be increased. There is now a Delivery Plan for the Green Infrastructure Strategy (produced by the Landscape Partnership in August 2009), the implementation of which is also key to the securing of effective mitigation. It is essential that a coherent network of green infrastructure is – as far as possible - in place **ahead** of development, as it will take time to become fully multi-functional. In terms of specific

greenspace allocation, it is important to disaggregate the green infrastructure requirements to fulfil specific mitigation for housing growth within the JCS from that required to mitigate for other elements of the plan, such as the NDR. There should be a clear line from potential harm to appropriate mitigation so that – should certain elements of the plan *not* proceed - elements of mitigation relating to other policies within the plan are not lost. Therefore, we would support the protection of land parcels between the proposed site of the NDR and the River Wensum, whether or not the road is built, as the SAC would still be vulnerable to unrestricted development.

There remains an element of uncertainty in the greenspace provision relating to the Broads. We would like to see the wording: 'could be marked for greenspace development only', redrafted to read 'will be marked...' The HRA at this stage should not just be offering recommendations, but – rather – providing solutions. The document should set forth the mitigation which **will** be implemented rather than merely suggesting possible approaches. Confirmation from the GNDP that this approach will be followed, with a realistic timescale for delivery, would remove any residual uncertainty over deliverability. It should be noted that the Greater Norwich Green Infrastructure Strategy was prepared to cover the green infrastructure needs of people, resulting from future housing growth, and does not replace the need to provide mitigation under the Habitats Regulations for the additional pressure this growth will place on designated sites.

While we have consistently supported the robustness of the JCS policies on water and climate change adaptation (including green infrastructure provision), and recognise that this document only sets out the strategic way forward, leaving the Development Plan Documents which emanate from it to provide the required further detail on mitigation, a degree of certainty over the feasibility of mitigation is still required by the Habitats Regulations Assessment process. In advising the GNDP, we remain concerned that the availability of funding may affect the viability of certain elements of the proposed mitigation – both in terms of greenspace provision (land purchase, resourcing long-term management etc), and sewerage and supply infrastructure for the water needs of the planned growth - although we fully appreciate that certain constituents of the solution lie beyond the control of the GNDP. It remains the case that mitigation proposals must be sufficiently robust to remove all uncertainty, and enable the competent authority to conclude no adverse effect on site integrity.

As you will be aware from our discussions last week, Natural England will be responding separately on the issues relating to water infrastructure, in a joint statement with the Environment Agency and Anglian Water Services, but we would take this opportunity to stress again the importance of all infrastructure being in place and – where appropriate – operational, before development takes place.

Thank you again for engaging with Natural England in this consultation process.

Please contact me if you have any questions about the content of this letter or would like to discuss these issues further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Helen Ward', written in a cursive style.

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